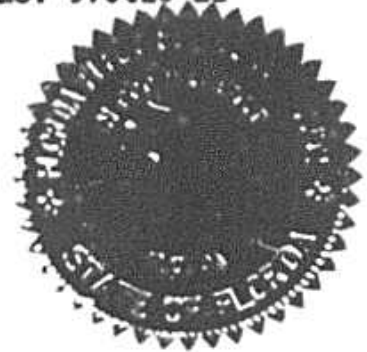


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of
Proposal to extend plan
for recording of certain
expenses for years 1998
1999 for Florida Power &
Light Company.

DOCKET NO. 970410-EX



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER J. TERRY DEASON
Prehearing Officer

DATE: Monday, November 17, 1997

TIME: Commenced at 1:30 p.m.
Concluded at 1:50 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: H. RUTHE POTAMI, CSR, RPR
Official Commission Reporter

DOCUMENT NUMBER-DATE

11787 NOV 18 97

FPSC-RECORDS/REGISTRATION

1 **APPEARANCES:**

2 **MATTHEW M. CHILDS**, Steel, Hector & Davis,
3 215 South Monroe Street, Suite 601, Tallahassee,
4 Florida 32301, appearing on behalf of **Florida Power &**
5 **Light Company.**

6 **JAMES W. BEW**, Brickfield, Burchette &
7 Ritts, 1025 Thomas Jefferson Street, N.W., Suite 800 -
8 West, Washington, D.C. 20007, and **MARIAM RUSH**, Salem,
9 Saxon & Nielsen, One Barnett Plaza, 101 East Kennedy
10 Boulevard, Suite 3200, Tampa, Florida 33602, on behalf
11 of **AmeriSteel Corporation.**

12 **ROBERT ELIAS** and **JORGE CRUZ-BUSTILLO**,
13 Florida Public Service Commission, Division of Legal
14 Services, 2540 Shumard Oak Boulevard, Tallahassee,
15 Florida 32399-0870, appearing on behalf of the
16 **Commission Staff.**

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1 PROCEEDINGS

2 (Hearing convened at 1:30 p.m.)

3 COMMISSIONER DEASON: Call the prehearing
4 conference to order. Have the notice read, please.

5 MR. ELIAS: Notice issued by the Clerk of
6 the Florida Public Service Commission advises that a
7 prehearing conference will be held in Docket
8 No. 970410-EI; that is the proposal to extend the plan
9 for recording of certain expenses for the years 1998
10 and '99 for Florida Power & Light Company.

11 The notices advises that a prehearing
12 conference will take place at 1:30 p.m.,
13 November 17th, 1997, in Room 148 of the Betty Easley
14 Conference Center located at 4075 Esplanade Way,
15 Tallahassee, Florida.

16 Commissioner, I'd like to note for the
17 record that this notice was issued within the
18 seven-day period which is required for notice of
19 Commission proceedings. I would note that all parties
20 to this docket waive the requisite notice; that notice
21 of this proceeding was published in Florida
22 Administrative Weekly on October 31st, 1997; and that
23 all parties to this proceeding are, in fact, here.

24 COMMISSIONER DEASON: Take appearances.

25 Mr. Brew?

1 **MR. BREW:** Yes, your Honor. For AmeriSteel,
2 the firm of Brickfield, Burchette & Ritts, my name is
3 James Brew, and also the firm of Salem, Saxon &
4 Nielsen; and with me today is Marian Rush from that
5 firm.

6 **MR. CHILDS:** Commissioner, my name is
7 Matthew Childs of the firm of Steel Hector & Davis.
8 I'm appearing on behalf of Florida Power & Light
9 Company.

10 **MR. CRUZ-BUSTILLO:** And George Cruz-Bustillo
11 and Bob Elias on behalf of Commission Staff.

12 **COMMISSIONER DEASON:** The parties heard the
13 Staff counsel, Mr. Elias, describe the notice for this
14 prehearing conference. I assume there's no objection
15 by anyone; is that correct?

16 **MR. CHILDS:** No objection.

17 **MR. BREW:** No objection.

18 **COMMISSIONER DEASON:** Are there any
19 preliminary matters?

20 **MR. CRUZ-BUSTILLO:** No, Commissioner.

21 **COMMISSIONER DEASON:** Any parties have any
22 preliminary matters?

23 **MR. BREW:** No, Commissioner.

24 **MR. CHILDS:** I have, in terms of the various
25 changes. I call it preliminary. I have typed it up

1 and have a copy for everybody for potential changes to
2 the prehearing order. I'll distribute it.

3 **COMMISSIONER DEASON:** That will be fine, if
4 you'll do that now. I appreciate that, Mr. Childs,
5 and as we go through the issues, we'll address each of
6 these that you have listed.

7 They look fairly -- mainly they just seem to
8 be simple corrections to a wording and things of that
9 nature.

10 **MR. CHILDS:** That's right.

11 **COMMISSIONER DEASON:** Okay. Well, then it's
12 my intent to proceed, then, through the draft
13 prehearing order. We'll begin with Section 1, Case
14 Background. Are there any changes or corrections to
15 that section?

16 Hearing none, Section 2 addresses procedure
17 for handling confidential information, which is the
18 standard process here at the Commission. Are there
19 any questions or concerns with that section?

20 Hearing none, we'll proceed, then, to
21 Section 3, Prefiled Testimony and Exhibits. Any
22 questions or concerns?

23 Hearing none, then we will address
24 Section 4, Order of Witnesses. Mr. Childs, I see that
25 you have indicated the issue numbers for your

1 witnesses. Is that the only change you wish for the
2 order of witnesses?

3 MR. CHILDS: That's correct.

4 COMMISSIONER DEASON: I take it, then, that
5 the order of witnesses is acceptable?

6 MR. BREW: Your Honor, I wanted to make a
7 request. We have three witnesses to address at the
8 hearing that begins next Tuesday.

9 Mr. DeWard, which is a rebuttal witness for
10 AmeriSteel, will be coming in from out of state. If
11 possible, I would like to see if we can try to manage
12 to accomplish the cross-examination of him on Tuesday
13 even if it means taking him out of the order listed
14 here.

15 COMMISSIONER DEASON: Tuesday is the first
16 day of the hearing; is that correct?

17 MR. BREW: That's correct.

18 COMMISSIONER DEASON: Mr. Childs, is there
19 an objection?

20 MR. CHILDS: No objection.

21 COMMISSIONER DEASON: Does Staff have an
22 objection?

23 MR. ELIAS: No objection.

24 COMMISSIONER DEASON: Very well. So
25 indicate, then, that Mr. Ward will be scheduled to

1 take the stand before the close of the hearing on
2 Tuesday. And it may be that we will conclude this
3 hearing in one day. I don't know what the schedule is
4 going to be, but that possibility exists.

5 Mr. Brew, are your witnesses addressing all
6 issues?

7 MR. BREW: Yes, your Honor. Well,
8 Mr. Cicchetti is. Mr. DeWard's testimony -- yes, your
9 Honor; both are.

10 COMMISSIONER DEASON: All right. We will
11 move, then, to Section 5, Basic Positions.

12 Mr. Childs, you have a minor correction that will be
13 noted. The court reporter has that as well. Any
14 other changes or corrections to the basic positions?

15 We will move then to Section 6, which are
16 the specific issues and positions for those issues,
17 and we will begin with Issue 1. Are there any changes
18 or corrections? Issue 2? Issue 3? Issue 4?
19 Issue 5? Issue 6? Issue 7?

20 Mr. Childs, I see that you have no position
21 at this time concerning the closure of the docket; is
22 that correct?

23 MR. CHILDS: Right.

24 COMMISSIONER DEASON: Mr. Brew, do you have
25 a position on Issue 7?

1 **MR. BREW:** No position at this time, your
2 Honor.

3 **COMMISSIONER DEASON:** Let me ask a question
4 at this point. What would be the possible -- I mean,
5 why is it this docket should not be closed? Let me
6 ask it that way. What is the necessity of the
7 possibility of having this docket remain open?

8 **MR. CHILDS:** I think that this issue is --
9 and I've raised it in another docket. I think this is
10 an issue that's typically raised to the Commission
11 when it decides a matter. I don't think it's raised
12 as a contested issue. I mean, I don't know how to
13 take a position on this issue at this time.

14 **COMMISSIONER DEASON:** Okay. Well, I
15 understand that. So you're saying there's nothing
16 within the Issues 1 through 6 --

17 **MR. CHILDS:** That relate.

18 **COMMISSIONER DEASON:** That would necessitate
19 some type of ongoing monitoring or revisit?

20 **MR. CHILDS:** I don't think so. I mean, I
21 think it would depend on the decision of the
22 Commission ultimately as to what it was going to do.

23 **COMMISSIONER DEASON:** Mr. Brew, do you agree
24 with that?

25 **MR. BREW:** Largely, Commissioner. However,

1 I would note that the references in the plan to the
2 accruals for fossil dismantlement and nuclear
3 decommission mention reserve deficiencies, if any,
4 would suggest that there would, of course, be ongoing
5 monitoring review of that based on some subsequent
6 decisions.

7 For starters, overall, depending on the
8 outcome of the docket, the Commission may want to keep
9 it open as well for other reasons, which is why I
10 would basically agree that it's something that the
11 Commission should consider at the time of --

12 **COMMISSIONER DEASON:** But would you agree
13 that it is the intent -- or it should be at the
14 conclusion of this docket a policy should be
15 established by the Commission as to how these matters
16 are going to be treated, and that if there's a factual
17 situation later on, the policy would be just applied
18 to that factual situation as -- concerning your
19 example of the deficiencies that may be determined at
20 some future time?

21 **MR. BREW:** Yes, I think so.

22 **COMMISSIONER DEASON:** Staff, do you have any
23 comments?

24 **MR. ELIAS:** There's no particular reason why
25 this issue is included here other than the Commission

1 is ultimately going to have to make a decision on it.

2 **COMMISSIONER DEASON:** All right. Perhaps
3 I'm reading more into it than is there. That
4 concludes, then, the specific issues.

5 We will then proceed to Section 7, the
6 exhibit list. Are there any changes or corrections to
7 the exhibit list?

8 Hearing none, then we will proceed to
9 Section 8, Proposed Stipulations. And there are no
10 proposed stipulations indicated; is that correct, and
11 there are no pending motions? Very well.

12 Is there anything else that needs to be
13 brought to the prehearing officer at this time?

14 **MR. CHILDS:** Not aware of anything.

15 **COMMISSIONER DEASON:** Mr. Brew?

16 **MR. BREW:** I don't believe so.

17 **COMMISSIONER DEASON:** Staff?

18 **MR. ELIAS:** No.

19 **COMMISSIONER DEASON:** Very well. Thank you
20 all. This prehearing conference is concluded.

21 (Discussion off the record.)

22 **COMMISSIONER DEASON:** We're back on the
23 record. I apologize. There was a matter that I
24 wanted to discuss, and I had mentioned it to Staff
25 counsel as well as my aide, and I forgot it myself,

1 but they reminded me.

2 I know earlier on in this case there was the
3 discussion, or at least the mention, that perhaps the
4 Commission may wish to make a bench decision at the
5 conclusion of the hearing.

6 I guess my question at this point of raising
7 it is, have the parties given that any thought, and if
8 the Commission is so inclined, how do we go about
9 preserving that as an option?

10 So Mr. Childs I'll start with you.
11 Concerning the question of a bench decision, have you
12 given that any thought?

13 MR. CHILDS: Well, some thought, and it's
14 acceptable to us if you do that. I mean, the
15 Commission in other dockets has made its decision that
16 way, and we have no objection.

17 COMMISSIONER DEASON: So you have no
18 objection if the Commission -- I don't know what the
19 majority of the Commission's pleasure is going to be.

20 MR. CHILDS: I understand.

21 COMMISSIONER DEASON: But I felt like it was
22 necessary to discuss it at this point, at least put
23 the parties on notice, and at least if that were the
24 desire of the majority of the Commission, to give them
25 that option.

1 Mr. Brew, have you given any thought to the
2 question of a bench decision?

3 **MR. BREW:** Commissioner, we would prefer
4 that there be an opportunity for written statements
5 and briefs on these issues.

6 To the extent the Commission determines that
7 it would prefer to handle it based on what they've
8 heard at the hearing, we'll certainly abide by that.
9 But I think given the nature of the issues, there
10 would be a benefit from some form of written sum-up
11 statements or posttrial statements or briefs on the
12 issues.

13 **COMMISSIONER DEASON:** Okay. So you do not
14 object, but you would definitely prefer a written
15 brief, opportunity to file that and have that
16 considered before Staff files our recommendations?

17 **MR. BREW:** Yes.

18 **COMMISSIONER DEASON:** If the Commission were
19 to engage in a bench decision, would the parties wish
20 to make a concluding argument before an actual vote by
21 the Commission?

22 **MR. BREW:** Yes, Commissioner Deason.

23 **COMMISSIONER DEASON:** Mr. Childs?

24 **MR. CHILDS:** Yes.

25 **COMMISSIONER DEASON:** Has Staff given any

1 thought to what would be an appropriate time for that
2 argument, or do the parties have any idea what would
3 be an appropriate time period for a concluding
4 argument?

5 MR. ELIAS: We have not; Staff has not.

6 COMMISSIONER DEASON: Mr. Brew, do you have
7 any idea what would be an appropriate time period?

8 MR. BREW: We have not discussed it with the
9 other parties at all. If the hearing does take the
10 two days -- of course that's the Wednesday before
11 Thanksgiving -- certainly sometime the following week,
12 or whatever is consistent with the Commission's
13 schedule otherwise.

14 COMMISSIONER DEASON: No. I'm speaking in
15 terms of at the conclusion of all witnesses, that
16 before we conclude the hearing you would have an
17 opportunity to make a closing argument, and then to --
18 before the Commission actually made a vote from the
19 bench.

20 In terms of minutes is what I'm considering.
21 What would be an appropriate time period to have a
22 concluding argument?

23 MR. BREW: In that case, then --

24 COMMISSIONER DEASON: Or closing statement,
25 however you want to characterize it.

1 MR. BREW: I would think a recess of maybe
2 an hour or so at the conclusion of the hearings for
3 the parties to sort of collect their wits would be
4 appropriate.

5 COMMISSIONER DEASON: And how long would you
6 actually need to make the argument?

7 MR. BREW: To make the arguments? A half an
8 hour.

9 COMMISSIONER DEASON: Half hour per side?

10 MR. BREW: Yes.

11 COMMISSIONER DEASON: Mr. Childs, what is
12 your preference?

13 MR. CHILDS: My estimate would be that the
14 time for the closing be limited and could be done in
15 about ten minutes.

16 COMMISSIONER DEASON: Well, what I'm going
17 to do at this point, I'm not going to make a decision
18 on that. I'll let the Chairman make that decision at
19 the time.

20 As Mr. Brew correctly points out, the second
21 day of the hearing is the day before Thanksgiving.
22 That may have some bearing on the amount of time we'll
23 allow if the Commission decides to engage in a bench
24 decision.

25 I would just instruct Staff to include in

1 the prehearing order that the possibility exists as an
2 option before the Commission, and the parties will not
3 object to that, even though it is the preference of
4 AmeriSteel to have a written brief. He also can
5 include that in the discussion somewhere. And if
6 there is going to be a bench decision, parties have
7 requested a brief recess to organize their argument,
8 and then a brief period of time at the end of the
9 hearing to present that argument.

10 And I'll let the Chairman decide, if we get
11 to that point, the length of the recess and the length
12 of the argument. Okay.

13 Now, I guess I should ask myself do I have
14 anything else. I think not. So having said that, the
15 prehearing conference is adjourned. Thank you all.

16 (Thereupon, the hearing concluded at 1:50
17 p.m.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

3 I, H. RUTHE POTAMI, CSR, RPR Official
4 Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 970410-EI was heard by the
7 Hearing Officer at the time and place herein stated;
8 it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed under my direct supervision; and that this
12 transcript, consisting of 15 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 18th day of November, 1997.

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H. RUTHE POTAMI, CSR, RPR
Official Commission Reporter
(904) 413-6732